



DEFINITIONS APPLICABLE TO THE COMPLAINT SYSTEM

The following definitions apply to the regulations in parts 652 through 658, parts 675 through 688 and 29 Part 38.

§651.10 DEFINITIONS

Act means the Wagner-Peyser Act (codified at 29 U.S.C. 49 et seq.).

Administrator, Office of Workforce Investment (OWI Administrator) means the chief official of the Office of Workforce Investment (OWI) or the Administrator's designee.

Agricultural employer means any employer as defined in this part who owns or operates a farm, ranch, processing establishment, cannery, gin, packing shed or nursery, or who produces or conditions seed, and who either recruits, solicits, hires, employs, furnishes, or transports any migrant or seasonal farmworker or any agricultural employer as described in 29 U.S.C. 1802(2).

Agricultural worker see Farmworker.

Career services means the services described in sec. 134(c)(2) of the Workforce Innovation and Opportunity Act (WIOA) and §678.430 of this chapter.

Complainant means the individual, employer, organization, association, or other entity filing a complaint.

Complaint means a representation made or referred to a State or ES office of an alleged violation of the ES regulations and/or other Federal laws enforced by the Department's Wage and Hour Division (WHD) or Occupational Safety and Health Administration (OSHA), as well as other Federal, State, or local agencies enforcing employment-related law.

Department means the United States Department of Labor, including its agencies and organizational units.

Employer means a person, firm, corporation, or other association or organization which currently has a location within the United States to which U.S. workers may be referred for employment, and which proposes to employ a worker at a place within the United States and which has an employer relationship with respect to employees under this subpart as indicated by the fact that it hires, pays, fires, supervises, and otherwise controls the work of such employees. An association of employers is considered an employer if it has all of the indicia of an employer set forth in this definition. Such an association, however, is considered as a joint employer with the employer member if either shares in exercising one or more of the definitional indicia.

Employment and Training Administration (ETA) means the component of the Department of Labor that administers Federal government job training and worker dislocation programs, Federal grants to States for public ES programs, and unemployment insurance benefits. These services are provided primarily through State and local workforce development systems.

Employment-related laws means those laws that relate to the employment relationship, such as those enforced by the Department's WHD, OSHA, or by other Federal, State, or local agencies.

Employment Service (ES) office means a site that provides Wagner-Peyser Act services as a one-stop partner program. A site must be colocated in a one-stop center consistent with the requirements of §§678.305 through 678.315 of this chapter.

Employment Service (ES) Office Manager means the individual in charge of all ES activities in a one-stop center.

Employment Service (ES) regulations means the Federal regulations at this part and parts 652, 653, 654, 658 of this chapter, and 29 CFR part 75.



Employment Service (ES) staff means individuals, including but not limited to State employees and staff of a subrecipient, who are funded, in whole or in part, by Wagner-Peyser Act funds to carry out activities authorized under the Wagner-Peyser Act.

Farmwork means the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities. This includes the raising of livestock, bees, fur-bearing animals, or poultry, the farming of fish, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market. It also includes the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state. For the purposes of this definition, agricultural commodities means all commodities produced on a farm including crude gum (oleoresin) from a living tree products processed by the original producer of the crude gum (oleoresin) from which they are derived, including gum spirits of turpentine and gum rosin. Farmwork also means any service or activity covered under §655.103(c) of this chapter and/or 29 CFR 500.20(e) and any service or activity so identified through official Department guidance such as a Training and Employment Guidance Letter.

Farmworker means an individual employed in farmwork, as defined in this section.

Individual with a disability means an individual with a disability as defined in sec. 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

Local Workforce Development Board or Local WDB means a Local Workforce Development Board established under sec. 107 of WIOA.

Migrant farmworker means a seasonal farmworker (as defined in this section) who travels to the job site so that the farmworker is not reasonably able to return to his/her permanent residence within the same day. Full-time students traveling in organized groups rather than with their families are excluded.

Migrant food processing worker see Migrant Farmworker.

MSFW means a migrant farmworker or a seasonal farmworker.

One-stop center means a physical center within the one-stop delivery system, as described in sec. 121(e)(2)(A) of WIOA.

One-stop delivery system means a one-stop delivery system described in sec. 121(e) of WIOA.

One-stop partner means an entity described in sec. 121(b) of WIOA and §678.400 of this chapter that is participating in the operation of a one-stop delivery system.

Regional Administrator (RA) means the chief Department of Labor Employment and Training Administration (ETA) official in each Department regional office.

Respondent means the individual or entity alleged to have committed the violation described in the complaint, such as the employer, service provider, or State agency (including a State agency official).

Seasonal farmworker means an individual who is employed, or was employed in the past 12 months, in farmwork (as defined in this section) of a seasonal or other temporary nature and is not required to be absent overnight from his/her permanent place of residence. Non-migrant individuals who are full-time students are excluded. Labor is performed on a seasonal basis where, ordinarily, the employment pertains to or is of the kind exclusively performed at certain seasons or periods of the year and which, from its nature, may not be continuous or carried on throughout the year. A worker who moves from one seasonal activity to another, while employed in farmwork, is employed on a seasonal basis even though he/she may continue to be employed during a major portion of the year. A worker is employed on other temporary basis where he/she is employed for a limited time only or his/her performance is contemplated for a particular piece of work, usually of short duration. Generally, employment which is contemplated to continue indefinitely is not temporary.



Secretary means the Secretary of the U.S. Department of Labor or the Secretary's designee.

Solicitor means the chief legal officer of the U.S. Department of Labor or the Solicitor's designee.

State means any of the 50 States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

State Administrator means the chief official of the SWA.

State agency or State Workforce Agency (SWA) means the State ES agency designated under sec. 4 of the Wagner-Peyser Act.

State hearing official means a State official designated to preside at State administrative hearings convened to resolve complaints involving ES regulations pursuant to subpart E of part 658 of this chapter.

State Workforce Agency (SWA) official means an individual employed by the State Workforce Agency or any of its subdivisions.

State Workforce Development Board or State WDB means the entity within a State appointed by the Governor under sec. 101 of WIOA.

Training services means services described in sec. 134(c)(3) of WIOA.

Wagner-Peyser Act Employment Service (ES) also known as Employment Service (ES) means the national system of public ES offices described under the Wagner-Peyser Act. Employment services are delivered through a nationwide system of one-stop centers, and are managed by State Workforce Agencies and the various local offices of the State Workforce Agencies, and funded by the United States Department of Labor.

WIOA means the Workforce Innovation and Opportunity Act (codified at 29 U.S.C. 3101 et seq.).

Workforce development activity means an activity carried out through a workforce development program as defined in sec. 3 of WIOA.

Working days or business days means those days that the order-holding ES office is open for public business, for purposes of the Agricultural Recruitment System.

[81 FR 56333, Aug. 19, 2016, as amended at 85 FR 625, Jan. 6, 2020]

§675.300 DEFINITIONS

Department means the U.S. Department of Labor, including its agencies and organizational units.

Employment and training activity means a workforce investment activity that is carried out for an adult or dislocated worker under part 678 of this chapter.

Equal opportunity data or EO data means data on race and ethnicity, age, sex, and disability required by 29 CFR part 38 of the Department of Labor regulations implementing sec. 188 of WIOA, governing nondiscrimination.

Employment and Training Administration or ETA means the Employment and Training Administration of the U.S. Department of Labor.

Federal award means:

(1) The Federal financial assistance that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in 2 CFR 200.101 (Applicability);



(2) The cost-reimbursement contract under the Federal Acquisition Regulations that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in 2 CFR 200.101 (Applicability); and

(3) The instrument setting forth the terms and conditions. The instrument is the grant agreement, cooperative agreement, other agreement for assistance covered in paragraph (b) of 2 CFR 200.40 (Federal financial assistance), or the cost-reimbursement contract awarded under the Federal Acquisition Regulations.

(4) Federal award does not include other contracts that a Federal agency uses to buy goods or services from a contractor or a contract to operate Federal government owned, contractor operated facilities (GOCOs).

Federal financial assistance means:

(1) For grants and cooperative agreements, assistance in the form of:

- (i) Grants;
- (ii) Cooperative agreements;
- (iii) Non-cash contributions or donations of property (including donated surplus property);
- (iv) Direct appropriations;
- (v) Food commodities; and
- (vi) Other financial assistance, except assistance listed in paragraph (2) of this definition.

(2) For purposes of the audit requirements at 2 CFR part 200, subpart F, Federal financial assistance includes assistance that non-Federal entities receive or administer in the form of:

- (i) Loans;
- (ii) Loan Guarantees;
- (iii) Interest subsidies; and
- (iv) Insurance.

(3) Federal financial assistance does not include amounts received as reimbursement for services rendered to individuals as described in 2 CFR 200.502, which outlines the basis for determining Federal awards expended.

Grant or grant agreement means a legal instrument of financial assistance between a Federal awarding agency and a non-Federal entity that, consistent with 31 U.S.C. 6302, 6304:

(1) Is used to enter into a relationship the principal purpose of which is to transfer anything of value from the Federal awarding agency to carry out a public purpose authorized by a law of the United States (see 31 U.S.C. 6101(3)); and not to acquire property or services for the Federal awarding agency's direct benefit or use;

(2) Is distinguished from a cooperative agreement in that it does not provide for substantial involvement between the Federal awarding agency or pass-through entity and the non-Federal entity in carrying out the activity contemplated by the Federal award.

(3) Grant agreement does not include an agreement that provides only:

- (i) Direct United States Government cash assistance to an individual;
- (ii) A subsidy;
- (iii) A loan;
- (iv) A loan guarantee; or
- (v) Insurance.



Grantee means the direct recipient of grant funds from the Department of Labor under a grant or grant agreement. A grantee also may be referred to as a recipient.

Individual with a disability means an individual with any disability as defined in sec. 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102). For purposes of WIOA sec. 188, this term is defined at 29 CFR 38.4.

Labor Federation means an alliance of two or more organized labor unions for the purpose of mutual support and action.

Local WDB means a Local Workforce Development Board (WDB) established under WIOA sec. 107, to set policy for the local workforce development system.

Non-Federal entity, as defined in 2 CFR 2900.2, means a State, local government, Indian tribe, institution of higher education (IHE), for-profit entity, foreign public entity, foreign organization or nonprofit organization that carries out a Federal award as a recipient or subrecipient.

Pass-through entity means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.

Recipient means a non-Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program. The term recipient does not include subrecipients.

State means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. The term "State" does not include outlying areas.

State WDB means a State Workforce Development Board (WDB) established under WIOA sec. 101.

Subgrant or subaward means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

Subrecipient means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program, but does not include an individual that is a beneficiary of such program. A subrecipient also may be a recipient of other Federal awards directly from a Federal awarding agency.

Wagner-Peyser Act means the Act of June 6, 1933, as amended, codified at 29 U.S.C. 49 et seq.

WIOA regulations mean the regulations in parts 675 through 687 of this chapter, the Wagner-Peyser Act regulations in part 652, subpart C, of this chapter, and the regulations implementing WIA sec. 188 in 29 CFR part 38.

Workforce investment activities mean the array of activities permitted under title I of WIOA, which include employment and training activities for adults and dislocated workers, as described in WIOA sec. 134, and youth activities, as described in WIOA sec. 129.

Youth workforce investment activity means a workforce investment activity that is carried out for eligible youth under part 679 of this chapter.

29 CFR §38.4 DEFINITIONS

Administrative Law Judge means a person appointed as provided in 5 U.S.C. 3105 and 5 CFR 930.203, and qualified under 5 U.S.C. 557, to preside at hearings held under the nondiscrimination and equal opportunity provisions of WIOA and this part.



Aid, benefit, service, or training means WIOA Title I-financially assisted services, financial or other aid, training, or benefits provided by or through a recipient or its employees, or by others through contract or other arrangements with the recipient. “Aid, benefit, service, or training” includes, but is not limited to:

- (1) Career Services;
- (2) Education or training;
- (3) Health, welfare, housing, social service, rehabilitation, or other supportive services;
- (4) Work opportunities;
- (5) Cash, loans, or other financial assistance to individuals; and
- (6) Any aid, benefits, services, or training provided in or through a facility that has been constructed, expanded, altered, leased, rented, or otherwise obtained, in whole or in part, with Federal financial assistance under Title I of WIOA.

Applicant means an individual who is interested in being considered for any WIOA Title I-financially assisted aid, benefit, service, or training by a recipient, and who has signified that interest by submitting personal information in response to a request by the recipient. See also the definitions of “application for benefits,” “eligible applicant/registrant,” “participant,” “participation,” and “recipient” in this section.

Applicant for employment means a person or persons who make(s) an application for employment with a recipient of Federal financial assistance under WIOA Title I.

Application for benefits means the process by which information, including but not limited to a completed application form, is provided by applicants or eligible applicants before and as a condition of receiving any WIOA Title I-financially assisted aid, benefit, service, or training from a recipient.

Assistant Attorney General means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

Assistant Secretary means the Assistant Secretary for Administration and Management, United States Department of Labor.

Auxiliary aids or services includes:

- (1) Qualified interpreters on-site or through video remote interpreting (VRI) services; notetakers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective means of making aurally delivered materials available to individuals with hearing impairments;
- (2) Qualified readers; taped texts; audio recordings; Brailled materials and displays; screen reader software; magnification software; optical readers; secondary auditory programs (SAP); large print materials; accessible electronic and information technology; or other effective methods of making visually delivered materials available to individuals who are blind or have low vision;
- (3) Acquisition or modification of equipment or devices; and
- (4) Other similar services, devices, and actions.

Babel notice means a short notice included in a document or electronic medium (e.g., Web site, “app,” email) in multiple languages informing the reader that the communication contains vital information, and explaining how to access language services to have the contents of the communication provided in other languages.

Beneficiary means the individual or individuals intended by Congress to receive aid, benefits, services, or training from a recipient.

Citizenship See “Discrimination prohibited based on citizenship status.” in §38.11.

CRC means the Civil Rights Center, Office of the Assistant Secretary for Administration and Management, U.S. Department of Labor.



Department means the U.S. Department of Labor, including its agencies and organizational units.

Departmental grantmaking agency means a grantmaking agency within the U.S. Department of Labor.

Director means the Director, Civil Rights Center, Office of the Assistant Secretary for Administration and Management, U.S. Department of Labor, or a designee authorized to act for the Director.

Direct threat means a significant risk of substantial harm to the health or safety of others that cannot be eliminated or reduced by auxiliary aids and services, reasonable accommodations, or reasonable modifications in policies, practices and/or procedures. The determination whether an individual with a disability poses a direct threat must be based on an individualized assessment of the individual's present ability safely to either:

(1) Satisfy the essential eligibility requirements of the program or activity (in the case of aid, benefits, services, or training); or
(2) Perform the essential functions of the job (in the case of employment). This assessment must be based on a reasonable medical judgment that relies on the most current medical knowledge and/or on the best available objective evidence. In determining whether an individual would pose a direct threat, the factors to be considered include:

- (i) The duration of the risk;
- (ii) The nature and severity of the potential harm;
- (iii) The likelihood that the potential harm will occur; and
- (iv) The imminence of the potential harm.

Eligible applicant/registrant means an individual who has been determined eligible to participate in one or more WIOA Title I-financially assisted programs or activities.

Employment practices of a recipient include, but are not limited to:

- (1) Recruitment or recruitment advertising;
- (2) Selection, placement, layoff or termination of employees;
- (3) Upgrading, promotion, demotion or transfer of employees;
- (4) Training, including employment-related training;
- (5) Participation in upward mobility programs;
- (6) Deciding rates of pay or other forms of compensation;
- (7) Use of facilities; or
- (8) Deciding other terms, conditions, benefits, and/or privileges of employment.

Employment-related training means training that allows or enables an individual to obtain skills, abilities and/or knowledge that are designed to lead to employment.

Entity means any person, corporation, partnership, joint venture, sole proprietorship, unincorporated association, consortium, Native American tribe or tribal organization, Native Hawaiian organization, and/or entity authorized by State or local law; any State or local government; and/or any agency, instrumentality or subdivision of such a government.

Facility means all or any portion of buildings, structures, sites, complexes, equipment, roads, walks, passageways, parking lots, rolling stock or other conveyances, or other real or personal property or interest in such property, including the site where the building, property, structure, or equipment is located. The phrase "real or personal property" in the preceding sentence includes indoor constructs that may or may not be permanently attached to a building or structure. Such constructs include, but are not limited to, office cubicles, computer kiosks, and similar constructs.

Federal grantmaking agency means a Federal agency that provides financial assistance under any Federal statute.



(y) **Financial assistance under Title I of WIOA** means any of the following, when authorized or extended under WIOA Title I:

- (1) Any grant, subgrant, loan, or advance of federal funds, including funds extended to any entity for payment to or on behalf of participants admitted to that recipient for training, or extended directly to such participants for payment to that recipient;
- (2) Provision of the services of Federal personnel, or of other personnel at Federal expense;
- (3) A grant or donation of Federal real or personal property or any interest in or use of such property, including:
 - (i) Transfers or leases of property for less than fair market value or for reduced consideration;
 - (ii) Proceeds from a subsequent sale, transfer, or lease of such property, if the Federal share of the fair market value of the property is not returned to the Federal Government; and
 - (iii) The sale, lease, or license of, and/or the permission to use (other than on a casual or transient basis), such property or any interest in such property, either:
 - (A) Without consideration;
 - (B) At a nominal consideration; or
 - (C) At a consideration that is reduced or waived either for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to or use by the recipient;
- (4) Waiver of charges that would normally be made for the furnishing of Government services; and
- (5) Any other agreement, arrangement, contract or subcontract (other than a Federal procurement contract or a contract of insurance or guaranty), or other instrument that has as one of its purposes the provision of assistance or benefits under WIOA Title I.

Fundamental alteration means:

- (1) A change in the essential nature of a program or activity as defined in this part, including but not limited to an aid, service, benefit, or training; or
- (2) A cost that a recipient can demonstrate would result in an undue burden. Factors to be considered in making the determination whether the cost of a modification would result in such a burden include:
 - (i) The nature and net cost of the modification needed, taking into consideration the availability of tax credits and deductions, and/or outside financial assistance, for the modification;
 - (ii) The overall financial resources of the facility or facilities involved in the provision of the modification, including:
 - (A) The number of persons aided, benefited, served, or trained by, or employed at, the facility or facilities; and
 - (B) The effect the modification would have on the expenses and resources of the facility or facilities;
 - (iii) The overall financial resources of the recipient, including:
 - (A) The overall size of the recipient;
 - (B) The number of persons aided, benefited, served, trained, or employed by the recipient; and
 - (C) The number, type and location of the recipient's facilities;
 - (iv) The type of operation or operations of the recipient, including:
 - (A) The geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the recipient; and
 - (B) Where the modification sought is employment-related, the composition, structure and functions of the recipient's workforce; and
 - (v) The impact of the modification upon the operation of the facility or facilities, including:
 - (A) The impact on the ability of other participants to receive aid, benefit, service, or training, or of other employees to perform their duties; and



(B) The impact on the facility's ability to carry out its mission.

Grant applicant means an entity that submits required documentation to the Governor, recipient, or Department, before and as a condition of receiving financial assistance under Title I of WIOA.

Grantmaking agency means an entity that provides Federal financial assistance.

Guideline means written informational material supplementing an agency's regulations and provided to grant applicants and recipients to provide program-specific interpretations of their responsibilities under the regulations.

Illegal use of drugs means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act, as amended (21 U.S.C. 812). "Illegal use of drugs" does not include the use of a drug taken under supervision of a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

Individual with a disability means a person who has a disability as previously defined in this section.

(1) The term "individual with a disability" does not include an individual on the basis of:

- (i) Transvestism, transsexualism, or gender identity disorders not resulting from physical impairments;
- (ii) Pedophilia, exhibitionism, voyeurism, or other sexual behavior disorders;
- (iii) Compulsive gambling, kleptomania, or pyromania; or
- (iv) Psychoactive substance use disorders resulting from current illegal use of drugs.

(2) The term "individual with a disability" does not include an individual who is currently engaging in the illegal use of drugs, when a recipient acts on the basis of such use. This limitation does not exclude as an individual with a disability an individual who:

- (i) Has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of drugs;
- (ii) Is participating in a supervised rehabilitation program and is no longer engaging in such use; or
- (iii) Is erroneously regarded as engaging in such use, but is not engaging in such use, except that it is not a violation of the nondiscrimination and equal opportunity provisions of WIOA or this part for a recipient to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (ff)(2)(i) or (ii) of this section is no longer engaging in the illegal use of drugs.

(3) With regard to employment, the term "individual with a disability" does not include any individual who:

(i) Is an alcoholic if:

- (A) The individual's current use of alcohol prevents such individual from performing the duties of the job in question; or
- (B) The individual's employment, by reason of such current alcohol abuse, would constitute a direct threat to the individual or the safety of others; or

(ii) Has a currently contagious disease or infection, if:

- (A) That disease or infection prevents the individual from performing the essential functions of the job in question; or
- (B) The individual's employment, because of that disease or infection, would constitute a direct threat to the health or safety of the individual or others.

Labor market area means an economically integrated geographic area within which individuals can reside and find employment within a reasonable distance or can readily change employment without changing their place of residence. Such an area must be identified in



accordance with either criteria used by the Bureau of Labor Statistics of the Department of Labor in defining such areas, or similar criteria established by a Governor.

Limited English proficient (LEP) individual means an individual whose primary language for communication is not English and who has a limited ability to read, speak, write, and/or understand English. LEP individuals may be competent in English for certain types of communication (e.g., speaking or understanding), but still be LEP for other purposes (e.g., reading or writing).

LWDA (Local Workforce Development Area) grant recipient means the entity that receives WIOA Title I financial assistance for a local area directly from the Governor and disburses those funds for workforce development activities.

National Programs means:

- (1) Job Corps; and
- (2) Programs receiving Federal financial assistance under Title I, Subtitle D of WIOA directly from the Department. Such programs include, but are not limited to, the Migrant and Seasonal Farmworkers Programs, Native American Programs, National Dislocated Worker Grant Programs, and YouthBuild programs.

Noncompliance means a failure of a grant applicant or recipient to comply with any of the applicable requirements of the nondiscrimination and equal opportunity provisions of WIOA and this part.

On-the-Job Training (OJT) means training by an employer that is provided to a paid participant while the participant is engaged in productive work that:

- (1) Provides knowledge or skills essential to the full and adequate performance of the job;
- (2) Provides reimbursement to the employer of up to 50 percent of the wage rate of the participant (or up to 75 percent as provided in WIOA section 134(c)(3)(H)), for the extraordinary costs of providing the training and additional supervision related to the training; and
- (3) Is limited in duration as appropriate to the occupation for which the participant is being trained, taking into account the content of the training, the prior work experience of the participant, and the service strategy of the participant, as appropriate.

Participant means an individual who has been determined to be eligible to participate in, and who is receiving any aid, benefit, service, or training under, a program or activity financially assisted in whole or in part under Title I of WIOA. "Participant" includes, but is not limited to, individuals receiving any service(s) under State Employment Service programs, and claimants receiving any service(s) or benefits under State Unemployment Insurance programs.

Participation is considered to commence on the first day, following determination of eligibility, on which the participant began receiving subsidized aid, benefit, service, or training provided under Title I of WIOA.

Parties to a hearing means the Department and the grant applicant(s), recipient(s), or Governor.

Population eligible to be served means the total population of adults and eligible youth who reside within the labor market area that is served by a particular recipient, and who are eligible to seek WIOA Title I-financially assisted aid, benefits, services, or training from that recipient. See the definition of "labor market area" in this section.

Program or activity, see "WIOA Title I-financially assisted program or activity" in this section.

Programmatic accessibility means policies, practices, and procedures providing effective and meaningful opportunity for persons with disabilities to participate in or benefit from aid, benefits, services, and training.



Prohibited basis means any basis upon which it is illegal to discriminate under the nondiscrimination and equal opportunity provisions of WIOA or this part, i.e., race, color, religion, sex, national origin, age, disability, or political affiliation or belief, or, for beneficiaries, applicants, and participants only, citizenship status or participation in a WIOA Title I-financially assisted program or activity.

Public entity means:

- (1) Any State or local government; and
- (2) Any department, agency, special purpose district, workforce development board, or other instrumentality of a State or States or local government.

Qualified individual with a disability means:

- (1) With respect to employment, an individual who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position;
- (2) With respect to aid, benefits, services, or training, an individual who, with or without auxiliary aids and services, reasonable accommodations, and/or reasonable modifications in policies, practices and procedures, meets the essential eligibility requirements for the receipt of such aid, benefits, services, or training.

Recipient means entity to which financial assistance under Title I of WIOA is extended, directly from the Department or through the Governor or another recipient (including any successor, assignee, or transferee of a recipient). The term excludes any ultimate beneficiary of the WIOA Title I-financially assisted program or activity. In instances in which a Governor operates a program or activity, either directly or through a State agency, using discretionary funds apportioned to the Governor under WIOA Title I (rather than disbursing the funds to another recipient), the Governor is also a recipient. In addition, for purposes of this part, one-stop partners, as defined in section 121(b) of WIOA, are treated as “recipients,” and are subject to the nondiscrimination and equal opportunity requirements of this part, to the extent that they participate in the one-stop delivery system. “Recipient” includes, but is not limited to:

- (1) State-level agencies that administer, or are financed in whole or in part with, WIOA Title I funds;
- (2) State Workforce Agencies;
- (3) State and Local Workforce Development Boards;
- (4) LWDA grant recipients;
- (5) One-stop operators;
- (6) Service providers, including eligible training providers;
- (7) On-the-Job Training (OJT) employers;
- (8) Job Corps contractors and center operators;
- (9) Job Corps national training contractors;
- (10) Outreach and admissions agencies, including Job Corps contractors that perform these functions;
- (11) Placement agencies, including Job Corps contractors that perform these functions;
- (12) Other National Program recipients.

Registrant means the same as “applicant” for purposes of this part. See also the definitions of “application for benefits,” “eligible applicant/registrant,” “participant,” “participation,” and “recipient” in this section.

Respondent means a grant applicant or recipient (including a Governor) against which a complaint has been filed under the nondiscrimination and equal opportunity provisions of WIOA or this part.

Sectarian activities means religious worship or ceremony, or sectarian instruction.

Section 504 means Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, as amended, which forbids discrimination against qualified individuals with disabilities in federally-financed and conducted programs and activities.



Service animal means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship, without more, do not constitute work or tasks for the purposes of this definition.

Service provider means:

- (1) Any operator of, or provider of aid, benefits, services, or training to:
 - (i) Any program or activity that receives WIOA Title I financial assistance from or through any State or LWDA grant recipient; or
 - (ii) Any participant through that participant's Individual Training Account (ITA); or
- (2) Any entity that is selected and/or certified as an eligible provider of training services to participants.

Small recipient means a recipient who:

- (1) Serves a total of fewer than 15 beneficiaries during the entire grant year; and
 - (2) Employs fewer than 15 employees on any given day during the grant year.
- (iii) **Solicitor** means the Solicitor of Labor, U.S. Department of Labor, or the Solicitor's designee.
 - (jjj) **State** means the individual states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau.

State Programs means programs financially assisted in whole or in part under Title I of WIOA in which either:

- (1) The Governor and/or State receives and disburses the grant to or through LWDA grant recipients; or
- (2) The Governor retains the grant funds and operates the programs, either directly or through a State agency.
- (3) "State Programs" also includes State Workforce Agencies, State Employment Service agencies, and/or State unemployment compensation agencies.

State Workforce Agency (SWA) means the State agency that, under the State Administrator, contains both State agencies with responsibility for administering programs authorized under the Wagner-Peyser Act, and unemployment insurance programs authorized under Title III of the Social Security Act.

Title VI means Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq., as amended, which forbids recipients of federal financial assistance from discriminating on the basis of race, color, or national origin.

Ultimate beneficiary, see the definition of "beneficiary" in this section.

Vital information means information, whether written, oral or electronic, that is necessary for an individual to understand how to obtain any aid, benefit, service, and/or training; necessary for an individual to obtain any aid, benefit, service, and/or training; or required by law. Examples of documents containing vital information include, but are not limited to applications, consent and



complaint forms; notices of rights and responsibilities; notices advising LEP individuals of their rights under this part, including the availability of free language assistance; rulebooks; written tests that do not assess English language competency, but rather assess competency for a particular license, job, or skill for which English proficiency is not required; and letters or notices that require a response from the beneficiary or applicant, participant, or employee.

(uuu) **Wheelchair** means a manually-operated or power-driven device designed primarily for use by an individual with a mobility disability for the main purpose of indoor and/or outdoor locomotion.

WIOA means the Workforce Innovation and Opportunity Act.

WIOA Title I financial assistance, see the definition of “Financial assistance under WIOA” in this section.

WIOA Title I-financially assisted program or activity means:

(1) A program or activity, operated by a recipient and financially assisted, in whole or in part, under Title I of WIOA that provides either:

- (i) Any aid, benefit, service, or training to individuals; or
- (ii) Facilities for furnishing any aid, benefits, services, or training to individuals;

(2) Aid, benefit, service, or training provided in facilities that are being or were constructed with the aid of Federal financial assistance under WIOA Title I; or

(3) Aid, benefit, service, or training provided with the aid of any non-WIOA Title I financial assistance, property, or other resources that are required to be expended or made available in order for the program to meet matching requirements or other conditions which must be met in order to receive the WIOA Title I financial assistance. See the definition of “aid, benefit, service, or training” in this section.